

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11832-GAO

RONNIE JONES, RICHARD BECKERS, WALTER R. WASHINGTON,
WILLIAM E. BRIDGEFORTH, SHAWN N. HARRIS, EUGENE WADE,
GEORGE C. DOWNING, JR., CLARARISE BRISTOW and the
MASSACHUSETTS ASS'N OF MINORITY LAW ENFORCEMENT
OFFICERS,
Plaintiffs,

v.

CITY OF BOSTON, BOSTON POLICE DEPARTMENT and KATHLEEN
O'TOOLE as she is Commissioner of the Boston Police
Department.
Defendants.

**DEFENDANT KATHLEEN O TOOLE'S MOTION TO DISMISS PLAINTIFFS'
COMPLAINT.**

NOW COMES Kathleen O'Toole, Defendant in the above-entitled action, and moves pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss all counts of the Plaintiffs' Complaint directed against her.

As grounds therefore, Defendant O'Toole states that the Complaint is directed against her in her official capacity only (see, Complaint, at Paragraph Thirteen). Official capacity suits are only another way of pleading an action against the entity of which the individual is an agent, and such suits are to be treated as against the entity itself. See Kentucky v Graham, 473 U.S. 159, 165-66 (1985); Monell v. New York Department of Social Services, 436 U.S. at 690, n 55. Here, the entity (the City of Boston) is already a defendant for each of the counts directed against O'Toole in her official capacity. Any order of

this Court directed against the City of Boston is binding upon O'Toole as an agent of the City of Boston, and the claims against her are therefore redundant and superfluous and should be dismissed.

Respectfully submitted,
DEFENDANT, KATHLEEN O'TOOLE

Merita A. Hopkins
Corporation Counsel

By her attorneys:

s/ James M. Chernetsky

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Certification Pursuant to Local Rule 7.1(a)(2)

I hereby certify that on September 22, 2005, I conveyed to Rheba Rutkowski, Esq., counsel for the Plaintiffs, the grounds for this Motion and that the Parties were unable thereafter to resolve the issues presented herein.

s/ James M. Chernetsky
